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Attorneys for Thanh Cong Textile Garment Investment Trading Joint Stock Company

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
SEARS HOLDINGS CORPORATION, *et al.*, : Case No. 18-23538 (RDD)
Debtors.¹ : (Jointly Administered)
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NOTICE OF RECLAMATION CLAIM

PLEASE TAKE NOTICE that Thanh Cong Textile Garment Investment Trading Joint Stock Company (“*TCTEX*”), by and through its undersigned counsel, files this Notice of Reclamation Claim pursuant to 11 U.S.C. § 546(c), U.C.C. § 2-702 and applicable non-bankruptcy

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SRC Sparrow 1 LLC (None); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); SRC Sparrow 2 LLC (None); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); SRC O.P. LLC (None); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); SRC Facilities LLC (None); and SRC Real Estate (TX), LLC (None). The location of the Debtors’ corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

law, on the above-captioned debtors and debtors-in-possession (collectively, the “*Debtors*”), to reclaim certain assets (the “*Goods*”) that are subject to reclamation.

The Goods were sold in the ordinary course of business and received by the Debtors in the forty-five (45) days prior to the filing of the Debtors’ bankruptcy petitions on October 15, 2018 (the “*Petition Date*”). TCTEX is informed and believes the Debtors were insolvent at the time they received delivery of the Goods.

TCTEX incorporates by reference and attaches as Exhibit A hereto, a copy of the written demand for reclamation, and list of invoices and related information for the Goods shipped from TCTEX to the Debtors during the forty-five (45) day period prior to the Petition Date (the “*Reclamation Demand*”), served on the Debtors and the Debtors’ attorney of record on October 29, 2018, pursuant to 11 U.S.C. § 546(c). The value of the Goods at issue is not less than \$2,987,541.23.

PLEASE TAKE FURTHER NOTICE that TCTEX reserves all of its rights with respect to the Goods, including, without limitation, (i) its right to be paid in the ordinary course of business as a post-petition creditor of the Debtors to the extent the Goods were delivered to the Debtors on or after the Petition Date; (ii) its right to assert a 20-day administrative priority claim pursuant to 11 U.S.C. §503(b)(9); (iii) its right to assert a “new value” defense to any preference demand pursuant to 11 U.S.C. §547(c)(4); (iv) its right to demand payment of any portion of this invoice as a “cure” payment in connection with the Debtors’ assumption of any executory contract, if any, pursuant to 11 U.S.C. § 365; (v) its right to seek payment of its prepetition invoices from any non-debtor parties that are co-obligors; (vi) its right to file additional demands or claims, including without limitation, a proof of claim; and/or (vii) its right to assert any other rights under applicable

law. By filing this Notice of Reclamation Claim, TCTEX does not consent to entry of final orders of the bankruptcy court on non-core issue and claims, and does not waive any jurisdictional defenses and reserves its rights to amend this Notice of Reclamation Claim.

Dated: New York, New York
October 29, 2018

CHAPMAN AND CUTLER LLP

By: 

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*Attorneys for Thanh Cong Textile Garment
Investment Trading Joint Stock Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of October 2018, a true and correct copy of the foregoing was served via ECF filing system of the United States Bankruptcy Court for the Southern District of New York on all parties receiving notice in this case.

/s/ _____
Joon P. Hong

Exhibit A

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October 29, 2018

VIA EMAIL AND OVERNIGHT MAIL
(RAY.SCHROCK@WEIL.COM)
(JACQUELINE.MARCUS@WEIL.COM)

Ray C. Schrock, P.C.
Jacqueline Marcus, Esq.
Weil Gotshal & Manges, LLP
767 5th Avenue
New York, NY 10153

VIA OVERNIGHT MAIL
Sears Holding Corporation
3333 Beverly Road
Hoffman Estates, IL 60179
Attn: General Counsel

Re: In re Sears Holding Corporation, et al., 18-23538 (RDD) (Bankr. S.D.N.Y.)
Demand for Reclamation Pursuant to 11 U.S.C. § 546(c)

Dear Ms. Marcus:

Pursuant to U.C.C. § 2-702 (and the applicable U.C.C. provisions in the states where the bulk of the Goods (as defined herein) were delivered) and Section 546(c) of the United States Bankruptcy Code, demand is hereby made upon Sears Holding Corporation and/or any of its subsidiaries and affiliates, as applicable (collectively, “Sears”) for the reclamation and return of all goods (the “Goods”) that were shipped to Sears by Thanh Cong Textile Garment Investment Trading Joint Stock Company (“TCTEX”), in the ordinary course of business, where such Goods were received by Sears within forty-five (45) days preceding the date upon which Sears filed its bankruptcy petition in the United States Bankruptcy Court for the Southern District of New York (the “Petition Date”).

This demand covers 65 invoices not less than \$2,987,541.23 for the Goods that were delivered to Sears prior to the Petition Date, and for the proceeds of any Goods that may have been sold. Copies of the invoices are enclosed herein. See **Schedule 1** hereto.

Demand is hereby made that the Goods sought to be reclaimed hereby continue to be segregated from Sears’ other inventory and returned to TCTEX, except to the extent, if any,

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prohibited by the Bankruptcy Court in Case Number 18-23538 (RDD), and that you provide an immediate accounting of all such Goods on-hand and their present location(s). Please take notice that these Goods are not to be sold, used or otherwise transferred except with our written consent or by order of the court of competent jurisdiction entered upon prior notice to TCTEX.

TCTEX reserves all rights under 11 U.S.C. § 503(b)(9) to the extent the Goods are not timely returned. In addition, TCTEX reserves the right to amend and supplement this reclamation demand and to make additional reclamation or other demands and claims TCTEX may have at law, in equity or otherwise. This reclamation demand is not intended to be and shall not be construed as an election of TCTEX's remedies, a waiver of any past, present or future defaults or events of default by Sears or any of its subsidiaries or affiliates or a waiver or limitation of any of its rights or remedies.

Very truly yours,

CHAPMAN AND CUTLER LLP

By: 

Joon P. Hong

Enclosures

Chapman and Cutler LLP

Schedule 1

			2,987,541.23			
INVOICE	INV_DATE	CUSTOMER	AMOUNT IN USD		FCR	PO No.
0002258/TCG	7/30/18	SEARS - SEARS,	87,354.22	x	7795587151	SV1769, ST1774, ST1787
0002255/TCG	8/2/18	SEARS - SEARS,	22,307.47	x	7795465744	SV1770, ST1774, ST1787
0002256/TCG	8/2/18	SEARS - SEARS, ROEBUCK AND CO	3,569.40	x	779561353T	SV1770
0002320/TCG	8/6/18	SEARS - SEARS, ROEBUCK AND CO	128,409.66	x	7795690331,	SG8327, SH8325, SG8319, SK8304, SH8332 SX6036, SX6041
0002334/TCG	8/7/18	SEARS - SEARS, ROEBUCK AND CO	42,494.14	x	7795677593	SQ0958
0002350/TCG	8/8/18	SEARS - SEARS, ROEBUCK AND CO	34,711.11	x	7795691992	SQ0958
0002361/TCG	8/9/18	SEARS - SEARS, ROEBUCK AND CO	62,630.96	x	7795716038	SU1028, SV0999
0002373/TCG	8/9/18	SEARS - SEARS,	156,605.76	x	7795777154,	SG8327, SH8325, SG8319,
0002376/TCG	8/9/18	SEARS - SEARS, ROEBUCK AND CO	50,872.92	x	7795765670	SU1028, SV0999
0002405/TCG	8/13/18	SEARS - SEARS, ROEBUCK AND CO	22,538.21	x	7795784887	SV1775, ST1776
0002412/TCG	8/13/18	SEARS - SEARS,	18,697.81	x	779578469T	SV1775, ST1776
0002414/TCG	8/13/18	SEARS - SEARS, ROEBUCK AND CO	59,421.01	x	7795732406, 7795692025	SL4533, SN4530, SM4521, SU1000
0002417/TCG	8/13/18	SEARS - SEARS, ROEBUCK AND CO	48,719.66	x	7795692102, 7795677604	SU1000, SL4533, SN4530, SM4521,
0002451/TCG	8/16/18	SEARS - SEARS, ROEBUCK AND CO	55,557.80	x	7795818316	SF8625, SF8626, SV0999
0002478/TCG	8/18/18	SEARS - SEARS, ROEBUCK AND CO	45,301.80	x	7795818459	SF8625, SF8626, SV0999
0002493/TCG	8/20/18	SEARS - SEARS, ROEBUCK AND CO	128.64	x	5278077464	SU0970
0002497/TCG	8/20/18	SEARS - SEARS,	166,651.26	x	7795817964	SV1770, SV1769, ST1774,
0002498/TCG	8/20/18	SEARS - SEARS,	150,040.67	x	7795821792	SV1770, SV1769, ST1774,
0002632/TCG	9/5/18	SEARS - SEARS, ROEBUCK AND CO	10,329.60	x	7795862349	SX6041
0002631/TCG	9/5/18	SEARS - SEARS, ROEBUCK AND CO	31,957.20	x	7795862338	SX6041
0002640/TCG	9/5/18	SEARS - SEARS, ROEBUCK AND CO	98,510.95	x	7795912564	SX6036, SX6041
0002641/TCG	9/5/18	SEARS - SEARS, ROEBUCK AND CO	96,569.33	x	7795893875	SX6036, SX6041
0002644/TCG	9/5/18	SEARS - SEARS, ROEBUCK AND CO	38,072.04	x	779587676T	SS1141, SR0971
0002677/TCG	9/6/18	SEARS - SEARS, ROEBUCK AND CO	4,160.16	x	7795885581	SV1153
0002679/TCG	9/6/18	SEARS - SEARS, ROEBUCK AND CO	3,690.36	x	7795885515	SV1153
0002708/TCG	9/7/18	SEARS - SEARS, ROEBUCK AND CO	45,899.72	x	7795877166	SS1141, SR0971

0002732/TCG	9/10/18	SEARS - SEARS,	68,681.34	x	7796007956	SV1769, ST1776, ST1787
0002766/TCG	9/13/18	SEARS - SEARS, ROEBUCK AND CO	450.36	x	7796032519	SV1153
0002767/TCG	9/13/18	SEARS - SEARS, ROEBUCK AND CO	473.04	x	7796032508	SV1153
0002780/TCG	9/15/18	SEARS - SEARS,	77,821.81	x	779604352T	SV1769, ST1776, ST1787
0002827/TCG	9/20/18	SEARS - SEARS, ROEBUCK AND CO	6,628.72	x	7796042507	SF8836, SS1141
0002829/TCG	9/20/18	SEARS - SEARS,	5,407.13	x	7796042650	SF8836, SS1141
0002903/TCG	10/2/18	SEARS - SEARS,	126,128.52	x	7796144301,	SV1770, ST1787
0002942/TCG	10/4/18	SEARS - SEARS, ROEBUCK AND CO	9,475.08	x	7796164409	SF8828
0002944/TCG	10/4/18	SEARS - SEARS, ROEBUCK AND CO	11,720.67	x	7796164354	SF8828, SF8836,
0002955/TCG	10/6/18	SEARS - SEARS, ROEBUCK AND CO	95,732.59	x	7796167115, 7796167104	SV1770, SG8746, SF8836, SF8826, SE8819,
0002316/TCG	8/4/18	KMART - KMART	190,195.86	x	7795690551	B2QSL, B2QRZ, B2QVF, B2ROS
0002335/TCG	8/7/18	KMART - KMART CORPORATION	45,304.81	x	7795720636	B2YCH, B2YFM, B2YCK
0002351/TCG	8/8/18	KMART - KMART CORPORATION	47,050.90	x	7795692014	B2YCH, B2YFM, B2YCK
0002372/TCG	8/9/18	KMART - KMART	149,624.09	x	7795777143	B2QSL, B2QRZ, B2QVF, B2ROS
0002406/TCG	8/13/18	KMART - KMART CORPORATION	27,510.34	x	7795784843	B2YYJ, B2QRY, B2QSI, B2QTR, B2QSQ, B2QRX, B2QTQ
0002407/TCG	8/13/18	KMART - KMART CORPORATION	3,064.22	x	7795784854	B2QSW
0002408/TCG	8/13/18	KMART - KMART CORPORATION	533.36	x	7795784865	B2QXD, B2QVB
0002413/TCG	8/13/18	KMART - KMART CORPORATION	38,773.18	x	7795784722, 7795784711, 7795784700	B2QSW
0002415/TCG	8/13/18	KMART - KMART CORPORATION	24,998.46	x	7795692036	B1VF9, B2Y3R, B2Y2K, B2Y50
		KMART - KMART CORPORATION		x	7795692058	
0002416/TCG	8/13/18	KMART - KMART CORPORATION	29,582.10	x	7795692080	B2Y3R, B2Y2K, B2Y50 / B1VF9
		KMART - KMART CORPORATION		x	7795692091,	
0002448/TCG	8/16/18	KMART - KMART CORPORATION	8,785.70	x	7795784689	B1VG2
0002447/TCG	8/16/18	KMART - KMART CORPORATION	13,603.60	x	7795784876	B2RNX , B2RNY
0002452/TCG	8/16/18	KMART - KMART CORPORATION	40,399.80	x	7795818327	B2RNX, B1VG2
0002479/TCG	8/18/18	KMART - KMART CORPORATION	47,191.30	x	779581846T	B2RNX, B1VG2 , B2RNY
0002528/TCG	8/23/18	KMART - KMART CORPORATION	1,390.40	x	7795811331	B2X88
0002529/TCG	8/23/18	KMART - KMART CORPORATION	1,760.00	x	7795811078	B2X88
0002645/TCG	9/5/18	KMART - KMART CORPORATION	60,911.32	x	779587698T	B1V3Y, B1V4J , B2X0W, B2Y58, B2Y3M, B2X8V, B2Y3N/ B2Y50
		KMART - KMART CORPORATION	2,025.00	x	7795877023	
		KMART - KMART CORPORATION	30,533.71	x	7795877078	B2X88/ B1VGQ, B1VGR, B1VGW , B1VGF
		KMART - KMART CORPORATION	176.00	x	7795877045,	
0002678/TCG	9/6/18	KMART - KMART CORPORATION	3,691.55	x	7795885559	B2XB2, B2XB3
0002680/TCG	9/6/18	KMART - KMART CORPORATION	4,509.65	x	7795885504	B2XB2, B2XB3

0002709/TCG	9/7/18	KMART - KMART CORPORATION	82,916.64	x	7795877210, 7795877232, 7795877265, 7795877287	B1V3Y, B1V4J, B2X0W, B2Y58, B2Y3M, B2X8V, B2Y3N/ B2Y50
0002759/TCG	9/13/18	KMART - KMART CORPORATION	10,978.70	x	7796028075	B2XB2
0002760/TCG	9/13/18	KMART - KMART CORPORATION	11,175.65	x	7796029142	B2XB2
0002826/TCG	9/20/18	KMART - KMART	17,333.48	x	7796042518	B1V3Y, B2X0W, B2XCW,
0002828/TCG	9/20/18	KMART - KMART	18,636.00	x	7796042639	B1V3Y, B2X0W, B2XCW,
0002904/TCG	10/2/18	KMART - KMART	90,155.65	x	7796144323	B2XCW, B2XCX, B2WT0,
0003015/TCG	10/17/18	KMART - KMART CORPORATION	(10,983.00)	x		B2XDM, B2NJQ, B2NJP, B2XB1, B2XDC, B2NJR
0002943/TCG	10/4/18	KMART - KMART CORPORATION	7,319.52	x	7796164420	B2XDN
0002945/TCG	10/4/18	KMART - KMART CORPORATION	7,054.56	x	7796164343	B2XDN
0002956/TCG	10/6/18	KMART - KMART	93,617.56	x	7796167126	B2XCW, B2XCX, B2WT0,